



STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES

Mail correspondence to: PO Box 44510 • Olympia WA 98504-4510

September 20, 2005

Dear Agricultural Employer:

The information in this Agricultural Employer packet is to help agricultural employers understand their responsibilities under Washington State employment laws. If an employer is contacted by an L&I Industrial Relations Agent for an investigation about an injured minor, alleged complaints about employment of minors, wage issues, meal or rest periods, record keeping requirements or alleged violations of other agricultural regulations, using the forms in this packet should help prepare the employer for a successful review by department staff.

- The “L&I Agricultural Website and Telephone Resources” (F700-126-000) form assists agricultural employers to more easily find L&I websites and phone numbers.
- The “Summary of Agricultural Employment Regulations and Farm Labor Contractor Requirements” (F700-124-000) summarizes laws employer’s need to know to ensure they are in compliance with state employment laws. It also notes where there are differences between state and federal employment laws.
- The “Agricultural Employer Worksheet” (F700-125-000) was designed to help agricultural employers know whether they are correctly following the agricultural minimum wage and employment standard regulations.

Also included are agricultural employment laws RCW 49.30 and WAC 296-131, on which the information in this packet was based.

Sincerely,

Richard A. Ervin
Program Manager

DISCLAIMER STATEMENT

This document contains Revised Code of Washington laws and Washington Administrative Code rules which are current as of the date of print on the cover. Changes may have occurred since the date of print, in subsequent legislative sessions and administrative rule hearings, that may have dramatically changed a law or rule. You are encouraged to research the most current language of RCW laws and WAC rules by contacting your public library.



SUMMARY OF AGRICULTURAL EMPLOYMENT REGULATIONS AND FARM LABOR CONTRACTOR REQUIREMENTS

This document is intended as a summary of employment laws relating to the agricultural industry. For more specific information, contact the Department of Labor & Industries Employment Standards office at 360.902.5316. Differences between state and federal laws are noted, and in such instances the more stringent or more favorable law to the employees applies.

1. Payment of Wages: For agricultural workers 16 years of age and older, the rate of pay must be equal to minimum wage for all hours worked regardless of the payment method. Workers under 16 years of age may be paid 85% of the adult minimum wage. Minimum wage changes each January 1. Payment methods may include:

- | | | | | |
|-----------|------------|-------------|------------------------|-----------|
| > Hourly | > Salary | > Piecerate | > Per Pound | > Per Box |
| > Per Bin | > Per Sack | > Per Flat | > Combination of rates | > Other |

For information on the minimum wage exemption for "hand harvest labor" that is applicable to local employees who work less than 13 weeks in agriculture per year, contact the Department. This exemption does not apply to employees who earn their living in agriculture but is intended for local high school students or adults who choose to work a few weeks in agriculture during the harvest season.

Overtime pay is not required for employees employed by the farming operation that produces the agricultural or horticultural products. In workweeks when the farming operation buys or accepts products from another farming operation or from other sources, overtime must be paid. Examples: 1) Overtime does not apply when a berry farm raises and packs its own berries. 2) If a berry farm raises and packs its own berries and also buys from or packs other grower's berries, overtime must be paid in those workweeks.

2. Record Keeping: Records of dates and hours worked must be kept on a daily and weekly basis showing time in and time out, and it is recommended to have employees record on their time records when meal periods are taken. Employers may use any timekeeping method as long as it is accurate and complete. Typical records include:

- | | | | |
|--|---|--------------------------------|---------------------|
| > Time clock | > Sign-in sheet | > Written time cards or sheets | > Daily record book |
| > Attendance rosters if used as time sheet | > Calendar with employee name and hours written on it | | |

Time records may be kept by employees or by owner or supervisors/crew leaders. L&I recommends, but does not require, allowing employees to keep their own records of days and hours worked. If employees work as a family unit, the employer must keep time and payroll records separately for each employee in the family unit.

State record keeping regulations and federal MSPA (Migrant Seasonal Agricultural Worker Protection Act) requires that time and payroll records must be kept for three years and must contain the following information regardless of record keeping and payment methods:

- | | |
|--------------------------------------|-------------------------------|
| > Name | > Address |
| > Occupation | > Dates of employment |
| > Rate or rates of pay | > Amount paid each pay period |
| > Total hours worked each pay period | |

3. Payment Interval: Wages must be paid at no longer than monthly intervals on the established regular payday, unless federal law requires more frequent pay intervals. Federal MSPA requires payment no less often than every two weeks, or semi-monthly. When an employee is fired, laid off or quits voluntarily, final wages are due on the regularly established payday after termination. No advance notice by employee or employer is required for termination.

4. Pay Statements: Pay statements must be provided to each employee at the time wages are paid. If employees work as a family unit, employers must pay wages to each employee and provide individual pay statements to each employee. The following information must be included on each pay statement:

- | | |
|------------------------|--|
| > Name of employee | > Number of piece work units earned if paid on piece work basis |
| > Rate or rates of pay | > Number of hours worked or the number of days worked based on an 8-hr day |
| > Gross pay | > All deductions and the purpose for each deduction |
| > Pay period dates | > Employer's name, address, and telephone number |

Under WA law, employee social security numbers are not required on the pay statement. The pay statement must be separate from paycheck (not just written on the face of the check). Federal MSPA requires the employer's IRS ID number on the pay statement.

5. Meal and Rest Periods:

- > **Meal Breaks:** If working more than 5 hours, employees shall receive at least a 30-minute unpaid meal period; if they work more than 11 hours in a day, they shall be allowed at least one additional 30-minute meal period.
- > **Rest Breaks:** Employees shall be allowed at least a 10-minute paid rest period in each 4-hour period of employment. If paid on a piecework basis, the rest period time must be included in the number of hours for which the minimum wage must be paid.

Both adult and minor employees are entitled to meal and rest breaks. Employees may waive meal breaks. If employees waive their meal breaks, they must be paid for the meal period and L&I strongly recommends obtaining a written statement from the employee that it is his/her choice to waive the meal period. Employers are not required to allow employees to waive their meal breaks. Employees may not waive their right to rest periods.

6. Employment of Workers Under Age 18 (Minors): When employing any person under age 18, the employer must file an application for a Minor Work Permit with L&I within 3 days of employing the minor. The process is through the Master Business License section of the Dept. of Licensing. The employer must obtain a completed "Parent/School Authorization" form for each minor employee to be kept with employment records for three years. Specific laws regarding hours of work and allowable or prohibited occupations must be followed that are specific to age groups of 12/13, 14/15, and 16/17 years of age.

For more specific information and forms, check L&I's publication 'Young Workers in Agriculture' (form #F700-096-909 (3/03) on the L&I website at www.lni.wa.gov/WorkplaceRights, (click on "Get a Form or Publication) or contact the nearest L&I office.

7. Farm Labor Contracting Law: If an agricultural employer uses the services of a Farm Labor Contractor (FLC) and pays a fee for the FLC to recruit, employ, solicit, supply, or transport agricultural employees to perform agricultural work on a farm, the FLC must have a valid farm labor contractor license from L&I.

Definition of agricultural employer: Any person engaged in agricultural activity including growing, producing, harvesting of farm/nursery products, or engaged in forestation or reforestation of lands, which includes but is not limited to planting, transplanting, tubing, precommercial thinning, thinning of trees and seedlings, clearing, piling and disposal of brush and slash, harvest of Christmas trees, and other related activities.

Definition of agricultural employee: Any person who renders personal services to, or under the direction of an agricultural employer in connection with the employer's agricultural activity.

L&I advice to agricultural employers is: **Know Your Contractor!** Be sure the FLC:

- > has a valid FLC license
- > is registered with and is current for industrial insurance premiums
- > has a bond sufficient for the number of workers employed
- > is paying at least the minimum wage and is keeping time and payroll records for a period of three years

The FLC law requires that either the FLC or user of his/her services keeps records of names of employees, rate or rates of pay, number of piecework units if paid by piecework, number of hours worked, total pay period earnings, deductions identified and listed separately, and net pay. The FLC is required to provide a copy of these records to the user—the agricultural business. The farm owner is responsible to have records prepared for every worker who is on the farm property. If the FLC defaults or is unlicensed, the agricultural employer may be held responsible for paying premiums for industrial insurance and wages due to employees of the FLC and employees may file crop liens against the agricultural employer. If an agricultural business *knowingly* uses the services of an unlicensed FLC, potential liability could include payment of taxes, wages, and a Notice of Violation, including penalties.

To verify whether the FLC has a valid farm labor contractor license and is registered and up-to-date for payment of industrial insurance premiums, check L&I websites: FLC license at www.lni.wa.gov/WorkplaceRights. To verify Industrial Insurance, go to www.lni.wa.gov/ClaimsIns/ (in middle box to the right of the screen).



AGRICULTURAL EMPLOYER WORKSHEET

This worksheet is designed to help you know whether you are following state Agricultural Employment Standards and the Minimum Wage Act when you employ workers. Filling out this worksheet is not required, but answering the checklist in the affirmative will help prepare you to be successful when your employment practices are reviewed by a state or federal inspector.

Employer Information:

Business Name: _____

Address: _____

Number of employees (approx): _____ Number of acres: _____

Farm Labor Contractor:

I use a Farm Labor Contractor (FLC) to recruit, solicit, employ, supply, or transport workers Yes ☐ No ☐

If yes, name of FLC: _____

I have verified with L&I that this FLC holds a valid FLC license and bond Yes ☐ No ☐

FLC License #: _____ I have a written and signed contract with the FLC Yes ☐ No ☐

I am keeping track of the workers of the FLC or I have verified that the FLC is keeping such records. The FLC law requires that either the FLC or user of his/her services keeps records of names of workers, rate or rates of pay, number of piece work units if paid by piece work, number of hours worked, total pay period earnings, deductions identified and listed separately, and net pay.

I am keeping the records: Yes ☐ No ☐ I have verified the FLC is keeping required records Yes ☐ No ☐

To verify the status of the FLC, check L&I website: www.lni.wa.gov/WorkplaceRights/. In "Agricultural" section, click on "Farm Labor Contractors".

I have checked that the farm labor contractor is current with industrial insurance premiums Yes ☐ No ☐

To verify industrial insurance premiums, check L&I website: www.lni.wa.gov/ClaimsIns. See middle box to right of the screen.

Payment of Wages/Record Keeping:

I pay based on one or more of the following types of pay: Hourly ☐ Piecework ☐ Salary ☐

Per pound ☐ Per can ☐ Per box ☐ Per bin ☐

Per sack ☐ Per flat ☐ Other (specify): _____

Hours are recorded by: Time clock/time cards ☐ Written time cards ☐ Sign-in sheet ☐

Daily record book ☐ Attendance roster if used as time sheet ☐

Calendar with employee names and hours per day ☐ Other _____

I understand I am required to keep these records for a period of at least three years Yes ☐ No ☐

Paydays and Pay Statements: Paydays must be scheduled at no longer than monthly intervals.

I pay my employees Daily ☐ Weekly ☐ Twice per month ☐ Semi-monthly ☐ Monthly ☐

I provide pay statements to each worker on payday Yes ☐ No ☐ Each pay statement contains the required information:

Employee name Yes ☐ No ☐ Total hours worked Yes ☐ No ☐

Rate or rates of pay Yes ☐ No ☐ Piece rate if paid by piece rate Yes ☐ No ☐

Number of piece work units earned if paid on piece work basis Yes ☐ No ☐

Gross pay Yes ☐ No ☐ Dates of pay period Yes ☐ No ☐

Purpose of each deduction shown on pay statement Yes ☐ No ☐

Employer business name Yes ☐ No ☐ Employer address Yes ☐ No ☐

Business telephone number Yes ☐ No ☐

Meal and Rest Periods: I understand the requirements for meal and rest periods for my employees Yes ☐ No ☐

Meal breaks: If working more than 5 hours, employees must receive at least a 30-minute unpaid meal period; if they work more than 11 hours in a day, they must be allowed at least one additional 30-minute meal period. Rest breaks: Employees must be allowed at least a 10-minute paid rest period in each 4-hour work period. If paid on a piece work basis, the rest period time must be included in the number of hours for which the minimum wage must be paid.

My practice on meal periods is (describe): _____

My practice on rest periods is (describe): _____

Employment of Minors:

I employ minors (under age 18) Yes ☐ No ☐ I have a valid Minor Work Permit Yes ☐ No ☐

I have my valid Minor Work Permit posted on my premises Yes ☐ No ☐

I have completed and signed Parent/School Authorization forms on file for each of my minor workers Yes ☐ No ☐
(I understand I do not need the school signature if minors work only during non-school weeks.)

Number of minors employed (approx) _____

If yes, I schedule my minor workers for the hours permitted in each age group:

_____ **12/13** may be employed in the hand harvest of berries, bulbs, and cucumbers, and hand cultivation of spinach during weeks when school is not in session. They may work the same hours as for 14/15 yr-old workers

_____ **14/15** may work up to 8 hrs per day and up to 40 hrs per week during non-school weeks. During school weeks they may work up to 3 hrs on school days and up to 8 hrs on non-school days for a total of 21 hrs per week.

_____ **16/17** may work up to 10 hrs per day and 50 hrs per week during non-school weeks. During school weeks they may work up to 4 hours per day on school days and up to 8 hrs per day on non-school days, for a total of 28 hrs per wk

I understand the prohibited occupations for minors and do not assign or allow them to work in any of those jobs Yes ☐ No ☐

For more specific information and forms, check L&I's publication 'Young Workers in Agriculture' (form #F700-096-909, the L&I website at www.lni.wa.gov/WorkplaceRights (in Agricultural section, click on 'Agricultural Jobs for Teens'), or contact an L&I office.



Information	Website Address or Phone Number
Workplace Rights, Agriculture <ul style="list-style-type: none">• Breaks and Meal Periods• Wages, including minimum wage• Record Keeping• Specialty Forest Products Industry• Farm Labor Contractors• Agricultural Jobs for Teens• Forms and Publications	www.lni.wa.gov/WorkplaceRights Click on "Agriculture" to access information.
Workers' Compensation Requirements for Industrial Insurance Verify up-to-date payment of premiums by specific businesses	www.lni.wa.gov/ClaimsIns www.lni.wa.gov/ClaimsIns/Insurance/Uninsured
Workplace Safety and Health (WISHA) Safety information & requirements	www.lni.wa.gov/Safety
Trades & Licensing Find out if a business is a registered contractor for construction on your home or business	www.lni.wa.gov/TradesLicensing Check in Related L&I Topics box on the right side of the screen and click on "Look Up A Contractor..."
Toll-Free Numbers Employment Standards General Information & Workers Comp Contractor Registration Safety & Health Hotline U.S. Dept of Labor U.S. Dept of Labor website	1-866-219-7321 1-800-LISTENS (1-800-547-8367) 1-800-647-0982 1-800-423-7233 1-866-487-9243 www.dol.gov/esa/whd
L&I Required Posters* Workplace Posters — available in both English and Spanish Your Rights As an Agricultural Worker Safety & Health requirements Notice to Employees (workers' comp) Minimum Wage (recommended)	www.lni.wa.gov/IPUB/101-054-000.asp Click on the online link for the poster you want. F700-083-000 English F700-089-999 Spanish F416-081-909 Combined English & Spanish F242-191-909 Combined English & Spanish F700-102-909 Minimum Wage changes every January and new posters are available each year. Combined English/Spanish

*These publications are available on the internet and are also available from the L&I warehouse.

To order one to 10 copies: [Contact the L&I office closest to you](#). Please have the document number ready so we can process your request quickly. The title is also helpful.

To order more than 10 copies: Fax your request to the L&I Warehouse. Fax number: 360-902-4525. Include the following in your faxed request: Your name, mailing address, telephone number, title of the item you are requesting, document number, and quantity requested. Or call 360-902-5753 or 360-902-5754.

CHAPTER 49.30 RCW

AGRICULTURAL LABOR

Sections

49.30.005	Intent--Duties of department.
49.30.010	Definitions.
49.30.020	Hours and pay, recordkeeping.
49.30.040	Violation of chapter--Civil infraction.
49.30.900	Severability--1989 c 380.
49.30.901	Conflict with federal requirements--1989 c 380.

RCW 49.30.005 Intent--Duties of department. It is the intent of the legislature that the department assist agricultural employers in mitigating the costs of the state's unemployment insurance program. The department shall work with members of the agricultural community to: Improve understanding of the program's operation; increase compliance with work-search requirements; provide prompt notification of potential claims against an employer's experience rating; inform employers of their rights; inform employers of the actions necessary to appeal a claim and to protect their rights; and reduce claimant and employer fraud. These efforts shall include:

- (1) Conducting employer workshops and community seminars;
- (2) Developing new educational materials; and
- (3) Developing forms that use lay language. [1998 c 245 § 99; 1991 c 31 § 1; 1990 c 245 § 10; 1989 c 380 § 82.]

NOTES:

Conflict with federal requirements--1990 c 245: See note following RCW 50.04.030.

RCW 49.30.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agricultural employment" or "employment" means employment in agricultural labor as defined in RCW 50.04.150.

(2) "Department" means the department of labor and industries.

(3) "Employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity that engages in any agricultural activity in this state and employs one or more employees.

(4) "Employee" means a person employed in agricultural employment, and includes a person who is working under an independent contract the essence of which is personal labor in

agricultural employment whether by way of manual labor or otherwise. However, "employee" shall not include immediate family members of the officers of any corporation, partnership, sole proprietorship, or other business entity, or officers of any closely held corporation engaged in agricultural production of crops or livestock.

(5) "Minor" means an employee who is under the age of eighteen years. [1989 c 380 § 83.]

RCW 49.30.020 Hours and pay, recordkeeping. (1) Each employer required to keep employment records under RCW 49.46.070, shall retain such records for three years.

(2) Each employer shall furnish to each employee at the time the employee's wages are paid an itemized statement showing the pay basis in hours or days worked, the rate or rates of pay, the gross pay, and all deductions from the pay for the respective pay period. [1989 c 380 § 84.]

RCW 49.30.040 Violation of chapter--Civil infraction. Any violation of the provisions of this chapter or rules adopted hereunder shall be a class I civil infraction. The director shall have the authority to issue and enforce civil infractions according to chapter 7.80 RCW. [1989 c 380 § 86.]

RCW 49.30.900 Severability--1989 c 380. See RCW 15.58.942.

RCW 49.30.901 Conflict with federal requirements--1989 c 380. See note following RCW 50.04.150.

Chapter 296-131 WAC

AGRICULTURAL EMPLOYMENT STANDARDS Last Update: 6/11/01 WAC

296-131-001	Applicability.
296-131-005	Definitions.
296-131-006	Authority to enter, inspect, and investigate places of employment and records, and to conduct interviews.
296-131-010	Payment interval.
296-131-015	Pay statements.
296-131-017	Employment records.
296-131-020	Meals and rest periods.
296-131-100	Permits to employ minors.
296-131-105	Parental and school authorization.
296-131-110	Posting.
296-131-115	Age of employment.
296-131-117	Minimum wages--Minors.
296-131-120	Hours of work for minors in agriculture.
296-131-125	Prohibited and hazardous employment.
296-131-126	Lifting.
296-131-130	Recordkeeping.
296-131-135	Revocation of permits.
296-131-140	Variances.

WAC 296-131-001 Applicability. These standards, adopted pursuant to sections 83 through 86, chapter 380, Laws of 1989, shall apply to persons employed in agricultural labor as defined in RCW 50.04.150 and WAC 296-131-005. The standards in this chapter beginning at WAC 296-131-100 shall apply only to minors employed in agricultural labor. The standards in this chapter do not apply to the immediate family members of the officers of any business engaged in agricultural production of crops or livestock.

[Statutory Authority: RCW 49.30.030. 90-14-038, § 296-131-001, filed 6/29/90, effective 11/1/90. Statutory Authority: RCW 43.22.270, 1989 c 380 and chapter 49.46 RCW. 89-22-015 (Order 89-15), § 296-131-001, filed 10/24/89, effective 11/24/89.]

WAC 296-131-005 Definitions. For the purpose of these rules:

- (1) A "minor" is a person of either gender, employed in agricultural labor, who is under the age of eighteen years.
- (2) "Agricultural labor" is defined as services performed:
 - (a) On a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its

tools and equipment; or

(b) In packing, packaging, grading, storing, or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as incident to ordinary farming operations.

"Agricultural labor" does not include employment in commercial packing houses, commercial storage establishments, commercial canning, commercial freezing, or any other commercial processing with respect to services performed in connection with the cultivation, raising, harvesting and processing of oysters or raising and harvesting of mushrooms or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

(3) "Department" means the department of labor and industries.

(4) "Director" means the director of the department of labor and industries.

(5) "Employ" means to engage, suffer, or permit to work in agricultural labor.

(6) "Employee" means any person employed by an employer, except those who are members of the immediate family of an employer.

(7) "Employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity that engages in any agricultural activity in this state and employs one or more employees.

[Statutory Authority: RCW 49.30.030. 90-14-038, § 296-131-005, filed 6/29/90, effective 11/1/90.]

WAC 296-131-006 Authority to enter, inspect, and investigate places of employment and records, and to conduct interviews. In order to carry out the purposes of this chapter, the director or the director's authorized representative is authorized:

(1) To enter without delay any work site or area or other environment where work is performed by an employee or where employment records are, or are required to be, maintained; and

(2) To inspect, transcribe, and copy all pertinent records, and to inspect and investigate any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any employer, owner, operator, agent, or employee.

[Statutory Authority: RCW 49.30.030 and 43.22.310. 92-15-099, § 296-131-006, filed 7/20/92, effective 8/20/92.]

WAC 296-131-010 Payment interval. All wages due shall be paid at no longer than monthly intervals to each employee on established regular pay days, unless federal law requires more frequent pay intervals. To facilitate bookkeeping, an employer may implement a regular payroll system in which wages from up to seven days before pay day may be withheld from the pay period covered and included in the next pay period.

[Statutory Authority: RCW 43.22.270, 1989 c 380 and chapter 49.46 RCW. 89-22-015 (Order 89-15), § 296-131-010, filed 10/24/89, effective 11/24/89.]

WAC 296-131-015 Pay statements. A pay statement shall be provided to each employee at the time wages are paid. The pay statement shall identify the employee, show the number of hours worked or the number of days worked based on an eight-hour day, the rate or rates of pay, the number of piece work units earned if paid on a piece work basis, the gross pay, the pay period, all deductions and the purpose of each deduction for the respective pay period. A pay statement shall also include the employer's name, address, and telephone number.

[Statutory Authority: RCW 43.22.270, 1989 c 380 and chapter 49.46 RCW. 89-22-015 (Order 89-15), § 296-131-015, filed 10/24/89, effective 11/24/89.]

WAC 296-131-017 Employment records. (1) Every employer shall keep for at least three years a record of the name, address, and occupation of each employee, dates of employment, rate or rates of pay, amount paid each pay period to each such employee and the hours worked.

(2) Every employer shall make the records described in subsection (1) of this section available to the director or the director's authorized representative at any time for inspection and transcription or copying and to the employee, upon request for that employee's work record, at any reasonable time.

[Statutory Authority: RCW 43.22.270, 1989 c 380 and chapter 49.46 RCW. 89-22-015 (Order 89-15), § 296-131-017, filed 10/24/89, effective 11/24/89.]

WAC 296-131-020 Meals and rest periods. (1) Every employee employed more than five hours shall receive a meal period of at least thirty minutes. Employees working eleven or more hours in a day shall be allowed at least one additional thirty-minute meal period.

(2) Every employee shall be allowed a rest period of at least ten minutes, on the employer's time, in each four-hour period of employment. For purposes of computing the minimum wage on a piecework basis, the time allotted an employee for rest periods shall be included in the number of hours for which the minimum wage must be paid.

[Statutory Authority: RCW 49.30.030. 90-14-037, § 296-131-020, filed 6/29/90, effective 8/1/90.]

WAC 296-131-100 Permits to employ minors. (1) Within three days after the commencement of employment of one or more minors, an employer shall file with the department an application for a permit to employ minors. When validated by the supervisor of employment standards, this permit will authorize the employer to employ for one year any number of minor workers at the workplace specified in accordance with the conditions of the permit and the regulations established in this chapter.

(2) An employer shall at all times employ minors in accordance with the regulations established in this chapter, regardless whether the employer has filed with the department an application for a permit to employ minors as required in subsection (1) of this section.

(3) The department shall annually publicize the requirements of this chapter through departmental publications and other appropriate means designed to assist employers in complying with the law.

[Statutory Authority: RCW 49.30.030. 90-14-038, § 296-131-100, filed 6/29/90, effective 11/1/90.]

WAC 296-131-105 Parental and school authorization. (1) An employer of a minor shall be required to annually obtain written authorization from a minor's parent before employing the minor.

(2) Except when performing intermittent weekend work, a minor who is legally required to attend school and who is working during the school year shall obtain from his or her

school written authorization to work a specified number of hours per day and per week up to the maximum permitted in WAC 296-131-120, based on an evaluation of the impact of work on the student's academic performance. School authorization is not required for high school graduates.

(3) The parental and school authorization required by this chapter shall be on forms supplied by the department and shall be kept on file by the employer.

(4) Neither parent nor school authorization is required for minors who are emancipated by court order.

(5) For purposes of this section, "intermittent weekend work" is defined as work during the weekend arranged to be performed after the end of the preceding school week. Work performed after the beginning of the next school day is not considered to be intermittent weekend work and requires school authorization. Work during more than two weekends per quarter is not considered to be intermittent weekend work.

[Statutory Authority: RCW 49.30.030. 90-14-038, § 296-131-105, filed 6/29/90, effective 11/1/90.]

WAC 296-131-110 Posting. (1) At least one copy of a valid permit to employ minors shall be posted in a conspicuous place at the workplace specified in the permit.

(2) An informational poster supplied by the department, describing in English and Spanish the rights of agricultural employees under this chapter, also shall be posted in a conspicuous place at the workplace specified in the permit.

[Statutory Authority: RCW 49.30.030. 90-14-038, § 296-131-110, filed 6/29/90, effective 11/1/90.]

WAC 296-131-115 Age of employment. No minor under the age of fourteen shall be employed in agriculture at any time except as follows: Minors twelve and thirteen years of age may be employed in the hand harvest of berries, bulbs, and cucumbers and in the hand cultivation of spinach during weeks when school is not in session.

[Statutory Authority: RCW 49.30.030. 90-14-038, § 296-131-115, filed 6/29/90, effective 11/1/90.]

WAC 296-131-117 Minimum wages--Minors. Except where a higher minimum wage is required by Washington state or federal law:

(1) Every employer shall pay to each employee who has reached their sixteenth or seventeenth year of age a rate of pay per hour which is equal to the hourly rate required by RCW 49.46.020 for employees eighteen years of age or older, whether computed on an hourly, commission, piecework, or other basis, except as may be otherwise provided under this chapter.

(2) Every employer shall pay to each employee who has not reached their sixteenth year of age a rate of pay per hour that is not less than eighty-five percent of the hourly rate required by RCW 49.46.020 for employees eighteen years of age or older, whether computed on an hourly, commission, piecework, or other basis, except as may be otherwise provided under this chapter.

(3) These minimum wage provisions shall not apply when a minor student is in a work place to carry out an occupational training experience assignment directly supervised on the premises by a school official or an employer under contract with a school, and when no appreciable benefit is rendered to the employer by the presence of the minor student.

[Statutory Authority: RCW 43.22.270, 49.46.020, and chapters 43.22, 49.30, and 49.46 RCW. 01-13-012, § 296-131-117, filed 6/11/01, effective 7/12/01.]

WAC 296-131-120 Hours of work for minors in agriculture.

(1) Minors legally required to attend school may not be employed during school hours except by special permission from school officials as provided in RCW 28A.27.010 and 28A.27.090.

(2)(a) Minors under the age of sixteen may work up to three hours a day on school days, up to eight hours a day on nonschool days and up to twenty-one hours a week during weeks when school is in session. Minors under the age of sixteen may work up to eight hours a day and up to forty hours a week during weeks when school is not in session.

(b) Except as otherwise provided, on days when school is in session, minors under the age of sixteen may not be employed before 7:00 a.m. nor after 8:00 p.m. On days when school is not in session, minors under the age of sixteen may not be employed before 5:00 a.m. nor after 9:00 p.m. On days when school is in session, minors under the age of sixteen employed in animal agriculture or whose employment in crop production requires daily attention to irrigation, may be employed beginning at 6:00 a.m.

(3)(a) Minors who are sixteen and seventeen years of age may work up to twenty-eight hours a week, up to four hours a day on school days and up to eight hours a day on nonschool days during weeks when school is in session. Minors who are sixteen and seventeen years of age may work up to ten hours per day and up to fifty hours per week during weeks when school is not in session. Minors who are sixteen and seventeen years of age may work up to sixty hours per week in the mechanical harvest of peas, wheat, and hay during weeks when school is not in session.

(b) Minors who are sixteen and seventeen years of age may not be employed before 5:00 a.m. nor after 10:00 p.m. Minors who are sixteen and seventeen years of age may not work later than 9:00 p.m. on more than two consecutive nights preceding a school day.

(4) Except for minors employed in dairy or livestock production, in the harvest of hay, or whose employment in crop production requires daily attention to irrigation, no minor shall be employed more than six days in any one week.

(5) The provisions of this section shall not apply to minors sixteen years of age and older who can demonstrate emancipation by either (a) providing a marriage certificate as proof of marriage, or (b) providing a birth certificate that names the minor as a parent. Copies of such documents must be retained by the employer for one year, pursuant to the requirements of WAC 296-131-130.

[Statutory Authority: RCW 49.30.030 and 43.22.310. 92-15-099, § 296-131-120, filed 7/20/92, effective 8/20/92. Statutory Authority: RCW 49.30.030. 90-14-038, § 296-131-120, filed 6/29/90, effective 11/1/90.]

WAC 296-131-125 Prohibited and hazardous employment. (1) Employment in the following occupations in agriculture is prohibited to minors under the age of sixteen:

(a) Operating a tractor of over 20 PTO horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor.

(b) Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

(i) Corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, or mobile pea viner;

(ii) Feed grinder, crop dryer, forage blower, auger conveyor, or the unloading mechanism of a nongravity-type self-unloading wagon or trailer; or

(iii) Power post-hole digger, power post driver, or nonwalking type rotary tiller.

(c) Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

(i) Trencher or earthmoving equipment;

(ii) Fork lift; or

(iii) Potato combine.

(d) Working on a farm in a yard, pen, or stall occupied by a:

(i) Bull, boar, or stud horse maintained for breeding purposes; or

(ii) Sow with suckling pigs, or cow with newborn calf (with umbilical cord present).

(e) Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than six inches.

(f) Working from a ladder or scaffold (painting, repairing, or building structures, pruning trees, picking fruit, etc.) at a height of over twenty feet.

(g) Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper.

(h) Working inside:

(i) A fruit, forage, or grain storage designed to retain an oxygen deficient or toxic atmosphere;

(ii) An upright silo within two weeks after silage has been added or when a top unloading device is in operating position;

(iii) A manure pit; or

(iv) A horizontal silo while operating a tractor for packing purposes.

(i) Working in any manufacturing occupation.

(j) Working in any processing operations, including food processing.

(k) Working in transportation, warehouse, and storage or construction.

(l) Work in or about engine or boiler rooms.

(m) Work in freezers, meat coolers, and all work in preparing meats for sale. (Wrapping, sealing, labeling, weighing, pricing, and stocking are permitted if work is performed away from meat-cutting and preparation areas.)

(2) Employment in the following occupations in agriculture is prohibited to all minors:

(a) Handling, mixing, loading or applying (including cleaning or decontaminating equipment, disposal or return of empty containers, or serving as a flagman for aircraft applying) agricultural chemicals classified under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) as

Category I of toxicity, identified by the word "poison" and the "skull and crossbones" on the label; or Category II of toxicity, identified by the word "warning" on the label.

(b) Handling or using a blasting agent, including but not limited to, dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord.

(c) Transporting, transferring, or applying anhydrous ammonia.

(d) Work involving circular, band or chain saws, power driven wood working machines, power driven metal forming, punching and shearing machines, and guillotine shears.

(e) Work involving slaughtering, meat packing, or processing and rendering.

(f) Work involving wrecking and demolition.

(g) Work involving roofing.

(h) Work involving mechanical excavation.

(i) Work in any place where a strike or lockout exists.

(3) The employment prohibited by subsection (1) of this section shall not apply to the employment of any minor as a vocational agriculture student-learner in any of the occupations described in subsection (1)(a), (b), (c), (d), (e), or (f) of this section when each of the following requirements are met:

(a) The student-learner is enrolled in a vocational education training program in agriculture under a recognized state or local educational authority, or in a substantially similar program conducted by a private school;

(b) Such student-learner is employed under a written agreement which provides that the work of the student-learner is incidental to his training; that such work shall be intermittent, for short periods of time, and under the direct and close supervision of a qualified and experienced person; that safety instruction shall be given by the school and correlated by the employer with on-the-job training; and that a schedule of organized and progressive work processes to be performed on the job have been prepared;

(c) Such written agreement contains the name of the student-learner, and is signed by the employer and by a person authorized to represent the educational authority or school; and

(d) Copies of each such agreement are kept on file by both the educational authority or school and by the employer.

(4) The employment prohibited by subsection (1) of this section shall not apply to the employment of any minor in those occupations for which the minor has successfully completed one or more federal extension service training programs described in 29 C.F.R. section 570.72(b) and who has been instructed by the employer in the safe and proper operation of the specific equipment to be used, who is continuously and closely supervised

by the employer where feasible or, where not feasible, in work such as cultivating, whose safety is checked by the employer at least at midmorning, noon, and midafternoon, or during the first and second halves of the workday, whichever is more frequent.

(5) The employment prohibited by subsection (1) of this section shall not apply to the employment of any minor in those occupations for which the minor has successfully completed one or more of the vocational agriculture training programs described in 29 C.F.R. section 570.72(c) and who has been instructed by the employer in the safe and proper operation of the specific equipment to be used, who is continuously and closely supervised by the employer where feasible or, where not feasible, in work such as cultivating, whose safety is checked by the employer at least at midmorning, noon, and midafternoon, or during the first and second halves of the workday, whichever is more frequent.

(6) No minor shall be permitted to ride in or work in the vicinity of a vehicle driven by any person who is under the age of sixteen or anyone who does not possess a valid driver's license.

(7) No minor shall be employed in agriculture in the harvest of any crop to which agricultural chemicals described in subsection (2)(a) of this section have been applied, prior to the expiration of the preharvest interval or within fourteen days after the application if no preharvest interval has been established.

(8) If, upon inspection or investigation, the director or the director's designee believes that an employer is violating this section creating a danger from which there is a substantial probability that death or serious physical harm could result to a minor employee, the director or the director's designee may issue an order under RCW 34.05.479 immediately restraining the condition, practice, method, process, or means creating the danger and suspend the employer's permit authorizing employment of minors until action is taken to avoid, correct, or remove the danger.

(9) A copy of the federal regulations referenced in subsections (4) and (5) of this section may be obtained from the department upon request.

[Statutory Authority: RCW 49.30.030. 90-14-038, § 296-131-125, filed 6/29/90, effective 11/1/90.]

WAC 296-131-126 Lifting. Where weights in excess of twenty pounds are to be lifted, carried, pushed, or pulled as a normal part of an employee's responsibility, the employer shall

instruct minors on correct weight lifting techniques prior to the commencement of work and display a poster developed by the department illustrating correct weight lifting techniques.

[Statutory Authority: RCW 49.30.030. 90-14-038, § 296-131-126, filed 6/29/90, effective 11/1/90.]

WAC 296-131-130 Recordkeeping. In addition to the records required under WAC 296-131-017, an employer is responsible for obtaining and keeping on file for one year the following information concerning each minor employee:

(1) Proof of age by means of a copy of one of the following: Birth certificate; driver's license; baptismal record; Bible record; insurance policy at least one year old indicating the date of birth; witnessed statement of the parent or guardian; or a completed federal employment eligibility verification (Form I-9);

(2) Parental authorization required by WAC 296-131-105;

(3) School authorization required by WAC 296-131-105;

(4) Documentation of emancipation as provided by WAC 296-131-120(5).

Every employer shall make the records described in this section available to the director or the director's authorized representative at any time for inspection and transcription or copying and to the employee, upon request for that employee's work record, at any reasonable time.

[Statutory Authority: RCW 49.30.030 and 43.22.310. 92-15-099, § 296-131-130, filed 7/20/92, effective 8/20/92. Statutory Authority: RCW 49.30.030. 90-14-038, § 296-131-130, filed 6/29/90, effective 11/1/90.]

WAC 296-131-135 Revocation of permits. (1) The department may revoke any employer's permit to employ minors upon a showing that the conditions of its issuance are not being met, or that other conditions exist which are detrimental to the health, safety, or welfare of the minor.

(2) The department may refuse to issue or renew a permit to employ minors. If the department refuses to issue or renew a permit, it shall send the employer a notice of denial. The notice of denial shall explain the grounds for denial of the permit. The department may refuse to renew a permit if the conditions of its initial issuance are not being met.

(3) Any employer aggrieved by any action taken by the department under this section may appeal the action or decision

by filing notice of the appeal with the director within thirty days of the department's action or decision. Upon receipt of an appeal, a hearing shall be held in accordance with chapter 34.05 RCW. The director shall issue all final orders after the hearing. Final orders are subject to appeal in accordance with chapter 34.05 RCW. Orders not appealed within the time period specified in chapter 34.05 RCW are final and binding.

[Statutory Authority: RCW 49.30.030. 90-14-038, § 296-131-135, filed 6/29/90, effective 11/1/90.]

WAC 296-131-140 Variances. (1) Upon written application from an employer or an organization representing employers, a variance permitting employment of minors otherwise prohibited under WAC 296-131-120 or 296-131-125 may be granted for good cause shown. The employer or the organization representing employers shall give written notice to the employees so that they may submit their views to the department on any variance request.

(2) The department may afford the applicant and any involved employee, or employee representatives, the opportunity for oral presentation whenever circumstances of the particular application warrant.

(3) "Good cause" shall mean, but not be limited to, those situations in which the employer demonstrates that (a) the granting of the variance would not have a harmful effect upon the health, safety, or welfare of the minor employees involved; (b) the granting of the variance would not have a deleterious effect on school attendance or the academic performance of minors; and (c) the variance is necessary to meet usual crop cultural or harvest requirements.

(4) Upon application from an employer or an organization representing employers a variance permitting employment of minors otherwise prohibited under these rules may be granted by the director or an authorized representative of the director in response to a weather emergency.

[Statutory Authority: RCW 49.30.030. 90-14-038, § 296-131-140, filed 6/29/90, effective 11/1/90.]